

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

DAVID CHUTE, et al., )  
Plaintiffs, )  
v. ) NO. 3:12-0607  
JEREME ODOM, et al., ) Judge Trauger/Bryant  
Defendants. )

O R D E R

Plaintiffs Chute, who are proceeding pro se, have filed eight motions for leave to file subpoenas (Docket Entry Nos. 79-86). These motions seek an order from the Court directing the Clerk to issue subpoenas, apparently pursuant to Local Rule 45.01(a)(1).

Although these motions for subpoenas do not state explicitly, it appears that plaintiffs seek these subpoenas in aid of pretrial discovery. Two motions (Docket Entry Nos. 85 and 86) seek to subpoena two individuals for depositions. None of these motions explains why plaintiffs seek the information or testimony other than plaintiffs assert that they seek the requested subpoenas "in support of our claim."

The Court notes that all defendants have filed motions to dismiss for failure to state a claim pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure (Docket Entry Nos. 107, 116 and 119), and that plaintiffs have filed their responses in opposition (Docket Entry Nos. 115, 122 and 123). These motions, by law, require the Court to view the complaint in the light most favorable to the plaintiffs, accepting all well-pleaded factual allegations as true. *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009).

Accordingly, discovery is not ordinarily required for the Court to determine a motion to dismiss under Rule 12(b)(6), since the motion by its very nature challenges the legal sufficiency of the complaint, assuming all well-pleaded factual allegations to be true.

Given the present pendency of these motions to dismiss by all defendants, and considering that the plaintiffs' motion for subpoenas fail to explain why the information or testimony sought by the subpoenas is relevant to any issue in the case, the undersigned Magistrate Judge DENIES these pending motions for subpoenas (Docket Entry Nos. 79-86) without prejudice to plaintiffs' right to seek subpoenas under Local Rule 45.01(a)(1) after the Court has ruled upon the pending motions to dismiss.

It is so **ORDERED**.

s/ John S. Bryant  
JOHN S. BRYANT  
United States Magistrate Judge